

**PHARMACY EXAMINING BOARD
MINUTES
MADISON, WI
TUESDAY, MAY 14, 2002**

PRESENT: Susan Sutter, Michael Bettiga, Georgina Forbes, Cynthia Benning, John Bohlman, and Dan Luce

EXCUSED: Charlotte Rasmussen

STAFF PRESENT: Kim Nania, Bill Black, Alfred Hall and Grace Schwingel

GUESTS: Douglas Englebert, Department of Health & Family Services
Janice Unert, R.Ph., Women's International Pharmacy
Elizabeth A. Nelson, R.Ph., Women's International Pharmacy
Nathan Realee, DPH-4
Susan Kleppin, Pharmacy Society of Wisconsin
Karen Merrill, Osco Drug
Jamie Statz Paynter, Dean Pharmacy
Franklin LaDien, Walgreen Pharmacy

CALL TO ORDER

Sue Sutter called the meeting to order at 9:40 a.m. A quorum of six members was present.

AGENDA

Additions to the Agenda: 1) Closed Session - Distributor Stock and how it is stored, record keeping- to be discussed before Exam Issues. 2) Memo from Bill Black -Re: Repackaging, dealing with rules. 3) Testimony regarding extension of emergency rules relating to a pharmacy internship program. 4) No Appearance Request under "R" as noted on agenda. Two additional stipulations 01 PHM 071, Evelyn M. Fuller, R.Ph., and 01 PHM 085, Jon D. Herdrich, R.Ph. 5) Two additional case closings to be considered in closed session, 01 PHM 060 and 01 PHM 061.

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to approve the agenda as amended. Motion carried unanimously.

MINUTES OF APRIL 9, 2002

On page 3 of the minutes under "Discussion of Self-Inspection Forms . . ." the sentence should read: "Self-inspection forms should not be returned to the Department until all requirements are complete **or that a designated date of completion be included on the form.**"

MOTION: John Bohlman moved, seconded by Cynthia Benning, to approve the minutes of April 9, 2002, as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

Attorney Jim Harris presented proposed stipulations for James H. Teteak, R.Ph., Jon D. Herdrich, R.Ph., Evelyn M. Fuller, R.Ph.

SUMMARY REPORT ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

Legal Counsel gave an update of the status of administrative rules.

DISCUSSION OF REPACKAGING OF PREVIOUSLY DISPENSED DRUGS

Legal Counsel gave board members a copy of an e-mail message from Douglas Englebert with his response to the 4/30/02 memo from William Black and discussed the issue of repackaging with the Board. Legal Counsel will present revised guidelines at the June Board meeting.

REVIEW OF GENERIC SUBSTITUTION AS IT RELATES TO PREPRINTED PADS

Legal Counsel reviewed his 4/23/02 memo to the Board. Legal Counsel will revise this memo and bring it back to the board for the June Board meeting.

OXYGEN DISPENSING BY DISTRIBUTORS

The Board discussed the steps that need to be taken to resolve this issue. The Board felt it is appropriate to start with an educational process, identifying the distributors and then informing the distributor group of changes that need to be made to the current process and what options are available to them. Legal Counsel will do further work on the memo dealing with the dispensing of oxygen.

REVIEW AND APPROVAL TO SEND TO THE LEGISLATURE CLEARINGHOUSE RULE 01-155 RELATING TO "ACTIVE PRACTICE OF PHARMACY."

Board members requested that the written comments from the testimony relating to Clearinghouse Rule 01-155 relating to active practice of pharmacy be included in the June agenda packet.

MOTION: Michael Bettiga moved, seconded by Dan Luce to table this issue and address it at the June meeting. Motion carried unanimously.

APPOINT OF BOARD MEMBER TO APPEAR BEFORE JCRAR ON MAY 15TH IN REGARD TO INTERNSHIP EMERGENCY RULES

Legal Counsel handed out a copy of the notice of the Senate Hearings. The meeting has been changed to Thursday, May 16th at 9:00 a.m.

MOTION: John Bohlman moved, seconded by Dan Luce, to authorize Sue Sutter to attend the JCRAR meeting/hearing on May 16th at 9:00 a.m.

MOTION: John Bohlman moved, seconded by Dan Luce, to have an emergency teleconference meeting for the Board to approve the internship rules immediately after they come back from the legislature. Motion carried unanimously.

There was a discussion about changing Wis. Statutes 450.09(1)(a) to allow a managing pharmacist to manage more than 1 institutional and 1 community pharmacy simultaneously.

PRACTICE QUESTIONS.

The Board reviewed the practice questions and directed legal counsel's response.

MOTION: Cynthia Benning moved, seconded by Dan Luce, to approve a two-year extension to meet the CE requirement for the 96 year old gentleman, John Kwapiszewski and authorized legal counsel to write a letter to him granting him this extension. Motion carried unanimously.

DISTRIBUTOR/MANUFACTURER'S APPLICATIONS

Airgas North Central Inc., Wisconsin Rapids
Bristol-Myers Squibb, IN
Curtis Pharmac, Inc., MA
Henry Schein, Inc., IN
Lark Fulfillment, LLC, NJ
Medwest, Wisconsin Rapids
McKesson Drug Co., MI
National Dist & Contracting Inc., TN
National Notification Center, IN
Pharmacy Buying Group of America, Mequon
Phoenix Marketing Group, LLC, NJ
Salix Pharmaceuticals, NC
Schering Corporation, NV
Schering Corporation, GA
Warrick Pharmaceuticals Corporation, NJ
Warrick Pharmaceuticals Corporation, CA

MOTION: Dan Luce moved, seconded by Cynthia Benning, to approve the above applications. Motion carried unanimously.

REVIEW OF DISTRIBUTOR APPLICATION – STAT PHARMACEUTICALS, INC. – CA

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to approve the distributor application of Stat Pharmaceuticals, Inc. Motion carried unanimously.

VARIANCE REQUESTS

BOHLMAN DRUG STORE, INC. AND INFUSION PHARMACY SERVICES, INC.

Legal Counsel will write a letter to Bohlman Drug Store, Inc. and Infusion Pharmacy Services, Inc. informing them of the Board's decision.

THEDA CLARK PHARMACY, SHAWANO

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to deny the request for a variance of Theda Clark Pharmacy in Shawano. Motion carried unanimously.

AURORA PHARMACY, MILWAUKEE

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to request more information from Aurora Pharmacy before making a decision on their request.

NABP COMMENTS SUBMITTED TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OPPOSING RULES RELATING TO HIPAA

The Board had concerns about the position expressed by Carmen Catizone in his letter of 4/24/2002 to Executive Officers - State Boards of Pharmacy and under what authority this letter was written. The Board did not request the letter, and issues raised in this document do not reflect the position of the Wisconsin Pharmacy Examining Board. Legal Counsel will write a letter to NABP.

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to request legal counsel to write a letter for the Board's approval, to Secretary Tommy Thompson, with a copy to Carmen Catizone, to encompass the broad issue areas of: 1) the fact that the 4/24/02 letter does not reflect the position of the Wisconsin Pharmacy Examining Board on this issue; 2) the Wisconsin Pharmacy Board questions by what authority the 4/24/02 correspondence was written and how input from member boards was achieved. 3) The Wisconsin Pharmacy Board does not recall being asked its opinion about this issue. Motion carried unanimously.

REPORT OF CONTROLLED SUBSTANCES BOARD MEETING

Nothing to report.

ADJOURN TO CLOSED SESSION

MOTION: Dan Luce moved, seconded by Michael Bettiga, to adjourn to closed session pursuant to Wisconsin State Statutes 19.85(1)(a)(b)(f) and (g) –

12:30 A.M. Motion carried by a role call vote: Susan Sutter, Michael Bettiga, Cynthia Benning, John Bohlman, and Dan Luce.

Open session recessed at 12:40 a.m.

The Board deliberated on requests for stay of suspension, modification of orders, reinstatement of stay of suspension, proposed stipulations, case closings, and administrative warnings.

RECONVENE TO OPEN SESSION

MOTION: Michael Bettiga moved, seconded by John Bohlman, to reconvene the meeting into Open Session at 4:00 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

REQUESTS FOR STAYS OF SUSPENSION/CHANGES IN BOARD ORDERS

PHILIP DALLMAN, R.PH.

MOTION: Dan Luce moved, seconded by John Bohlman, to grant a three-month stay of suspension for Philip Dallman, R.Ph. The number of hours he can work as a pharmacist in charge was increased to 40 hours. He must appear before the board before he can be granted full licensure. Motion carried unanimously.

ROGER IVERSON, R.PH.

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to grant a three-month stay of suspension for Roger Iverson, R.Ph. Motion carried unanimously.

DAVID KLEINGARTNER, R.PH.

MOTION: Dan Luce moved, seconded by Cynthia Benning, to grant a three-month stay of suspension for David Kleingartner, but deny the request for an increase in the number of hours as pharmacist in charge-leaving him at 24 hours and to deny the request for changing the frequency of meetings with his therapist. Motion carried unanimously.

JANET KRUEGER, R.PH.

MOTION: Georgina Forbes moved, seconded by Cynthia Benning, to grant the three-month stay of suspension for Janet Krueger, R.Ph. Motion carried unanimously.

MARILYN KUHRT, R.PH.

MOTION: Marilyn Kuhrt. Dan Luce moved, seconded by Michael Bettiga, to grant the three-month stay of suspension for Marilyn Kuhrt, R.Ph. and to reduce

her therapy requirements to four times a year with Dr. Engel. Motion carried unanimously.

DONALD LEETZ, R.PH.

MOTION: Cynthia Benning moved, seconded by Georgina Forbes, to grant the three-month stay of suspension, but deny the request to modify the number of therapy visits for Donald Leetz. Motion carried unanimously.

MICHAEL O'KRAY, R.PH.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant Michael O'Kray a three-month stay of suspension. Motion carried unanimously.

CHARLENE WILLIS, R.PH.

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to deny the reinstatement of the three-month stay of suspension of Charlene Willis, R.Ph. for non-compliance and to require her to continue in individual or group sessions once a week. Motion carried unanimously.

DELIBERATION OF PROPOSED STIPULATIONS

SCENIC BLUFFS COMMUNITY HEALTH CENTER

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Scenic Bluffs Community Health Center. Motion carried unanimously.

JAMES H. TETEAKE, R.PH. – HARTFORD

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning James H. Teteak, R.Ph. Dan Luce abstained. Motion carried.

JON HERDRICH, R.PH.

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Jon Herdrich, R.Ph., 01 PHM 085. Dan Luce abstained. Motion carried.

EVELYN FULLER, R.PH.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Evelyn Fuller, R.Ph. Dan Luce abstained. Motion carried.

DIVISION OF ENFORCEMENT – CASE STATUS REPORT

MOTION: John Bohlman moved, seconded by Cynthia Benning, to close complaint **01 PHM 080** for no violation. Dan Luce abstained. Motion carried.

MOTION: John Bohlman moved, seconded by Michael Bettiga, to close complaint **01 PHM 091** for no violation. Motion carried unanimously.

MOTION: Dan Luce moved, seconded by Michael Bettiga, to close complaint **02 PHM 015** for no violation. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by John Bohlman, to close complaint **01 PHM 060** for no violation. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by John Bohlman, to close complaint **01 PHM 061** for no violation. Motion carried unanimously.

ADMINISTRATIVE WARNINGS

DENNIS RICHARDS - 01 PHM 092

MOTION: Dan Luce moved, seconded by Michael Bettiga, to issue an administrative warning in the matter concerning Dennis Richards. The case advisor was Sue Sutter. Motion carried unanimously.

DONALD MANN AND RICHARD OVERHOFFER - 02 PHM 007

MOTION: Dan Luce moved, seconded by Michael Bettiga, to issue an administrative warning in the matter concerning Donald Mann and Richard Overhoffer. The case advisor was Sue Sutter. Motion carried unanimously.

DISCUSSION WITH DOE REGARDING INVESTIGATORS DOING REVISITS ON INDIVIDUALS ON BOARD ORDERS.

David O'Connell, DOE, reviewed the procedures to be followed regarding revisits on individuals on board orders. If people don't follow board orders, they will automatically be involved in the screening process.

Alfred Hall talked about the inspection process and the need to develop a system for distributors who need to come into compliance, basically answering the questions "where did you get it, and how did you get rid of it?" Alfred Hall will work with Michael Bettiga on this issue to develop a standard procedure for handling the inspection process.

REGULATORY DIGEST

Katharine Hildebrand reported on the new newsletter, OPEN SESSION, that was sent to all board members. Hildebrand also reported on the Board Member Workshop that will be held on Tuesday, June 25, 2002.

ADJOURNMENT

MOTION: Cynthia Benning moved, seconded by Michael Bettiga to adjourn the meeting at 5:00 p.m. Motion carried unanimously.

Next Meeting - Tuesday, June 11, 2002